

LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' PLAN 2 RETIREMENT BOARD

Prohibition on Remarriage

Initial Consideration

July 25, 2007

1. Issue

A policy inconsistency exists between Workers' Compensation benefits and retirement benefits regarding the continuation of survivor benefits when the survivor of a member killed in the line of duty remarries. A survivor who remarries will continue to receive retirement benefits but may lose Workers' Compensation benefits.

2. Staff

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3. Members Impacted

This issue impacts survivors of LEOFF Plan 2 members who are killed in the line of duty. As of September 30, 2005 there were 15,168 active members in LEOFF Plan 2. The number of current survivors of line of duty deaths is being determined.

4. Current Situation

None of the current state administered retirement plans contain a prohibition on remarriage for a survivor receiving pension benefits. If a survivor remarries, their survivor pension benefits continue. Workers' Compensation benefits provided to a survivor of a line of duty death can cease if the survivor remarries.

5. Background Information and Policy Issues

A policy inconsistency exists between Workers' Compensation benefits and retirement benefits regarding the continuation of survivor benefits when the survivor of a member killed in the line of duty remarries. The LEOFF Plan 2 Retirement Board has been contacted by survivors of members killed in the line duty regarding this policy inconsistency.

Retirement Benefits for Survivors

If a member dies in the line of duty and has 10 or more years of service credit or is eligible to retire, the surviving spouse may choose between the following two benefits:

1. Payment of 150 percent of the member's accumulated contributions, or
2. A monthly benefit calculated as if the member had elected the Joint and 100% Survivor Option

If the survivor elects the continuing benefit, the survivor will continue to receive the benefit for their lifetime; the benefit is actuarially reduced to reflect the cost of providing the benefit over the survivor's lifetime.

Impact of Remarriage on Retirement Benefits

If a survivor remarries, it has no impact on the survivor's receipt of retirement benefits. Since inception, LEOFF Plan 2 has not contained any provisions with a prohibition on remarriage for survivors. Although LEOFF Plan 1 at one point contained a prohibition on remarriage, that provision was removed from the plan by the Legislature in 1977. In 2002, a provision was added to LEOFF Plan 1 to make the 1977 legislation retroactive, allowing pre-1977 survivors to remarry and continue receiving survivor retirement benefits.

None of the other State administered pension plans have prohibition of remarriage provisions. The pre-LEOFF Plan, administered at the local government level, does contain a remarriage prohibition. Legislation introduced in the 2007 Session to repeal the prohibition did not pass.

Workers' Compensation Benefits for Survivors

If a worker dies from a work-related injury or occupational disease, a surviving spouse receives a monthly benefit from Workers' Compensation. The amount the survivor receives is 60% of the worker's wages at the time of death. There are no actuarial reductions applied to this survivor benefit.

If a worker becomes disabled due to an injury, the worker may be paid a monthly pension for life. The amount the worker receives is based on the formula used for setting time-loss compensation payments. If the disabled worker dies and the death is not related to their disabling work-related injury or occupational disease, a surviving spouse is entitled to benefits if a pension survivor option was selected. The amount the survivor will receive is based on the survivor option chosen, which provides from 50 percent to 100 percent of the *actuarially reduced* monthly pension the disabled worker was receiving.

If the disabled worker dies and the death is related to their disabling work-related injury or occupational disease, the amount the survivor receives is 60% of the worker's wages at the time of disablement. There are no actuarial reductions applied to this survivor benefit.

Impact of Remarriage on Workers' Compensation Benefits

If a surviving spouse of someone who died from a work-related injury or occupational disease remarries, monthly benefit payments stop. This occurs whether a duty-related death or death following retirement from disability. The survivor will receive benefits through the end of the month in which they remarry. The survivor then has the option to receive a final settlement, or to leave the settlement in trust with Workers' Compensation. If the survivor accepts the settlement, no further benefits are paid under the claim. If the survivor leaves the settlement in trust and the new marriage ends in death, annulment or divorce, the survivor can apply to reinstate the pension as of the date of death or date the divorce becomes final. Should the survivor die while the settlement is in trust, the survivor's estate is paid 50 percent of the remaining pension reserve or the settlement amount, whichever is less.

If a surviving spouse of someone whose death is not related to their disabling work-related injury or occupational disease remarries, monthly benefit payments do not stop if a survivor option was selected. Similar to survivor retirement benefits, the worker's benefit was actuarially reduced to reflect the cost of continuing the benefit over the survivor's lifetime.